

REMARKS

Claims 11, 12 and 14-18 are pending in this application. Claim 13 was previously canceled without prejudice or disclaimer. Claims 11 has been amended. Reconsideration and allowance of all the claims are respectfully requested in view of the following remarks.

Claim Rejections Under 35 U.S.C. § 103

Claims 11, 12, 14, 15 and 17 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,341,572 to Howell et al. (hereinafter 'Howell') in view of U.S. Patent Publication No. 2003/0226669 to Wagner et al. (hereinafter 'Wagner').

Claim 16 and 18 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Howell et al. in view of German Patent No. DE 19811851 A1 to Wagner et al. (hereinafter "DE '851").

For the following reasons, these rejections are respectfully traversed.

Response

Entry and consideration of the Response Under 37 CFR § 1.116 and the Rule 132 Declaration filed on May 3, 2010, are respectfully requested. The arguments set forth in that Response and the Rule 132 Declaration are incorporated herein by reference.

Further, Applicant has amended claim 11 in order to define the phrase "much lower" more precisely. In particular, claim 11 has been amended by incorporating the clarification, according to which the control concentration (RK) corresponds to the limit concentration (GK) less the failure safety margin (ASA) and a safety margin (S), such that the oxygen content in the protected area is reduced to the control concentration (RK) which is so much lower than the limit concentration (GK) that the growth curve of the oxygen content reaches the limit concentration (GK) only after a certain period of time in the event that the primary source fails.

In this regard, Wagner is completely silent with respect to a failure safety margin of 10%. In detail, paragraph [0028] of Wagner teaches a person skilled in the art that the oxygen content of the buffer volume shall be of 10% by volume or less. The oxygen content of the buffer volume, however, cannot be compared with the oxygen content in the protected area because the buffer volume is not the protected area. Rather, according to the teachings set forth by Wagner, the buffer volume is used as a kind of inert gas source in order to store inert gas which is guided via supply lines to the enclosed protected area (target area) in order to extinguish a fire. In this regard, reference is made to paragraphs [0036] and [0037] of Wagner which read as follows:

"The buffer space is preferably designed as a container, particularly as a tank. In doing so, possible leaks, which may exit when using structurally specified premises for storing buffer gas, are excluded from the start. The container can be constructed in such a way that use is made of the available free space in intermediate ceiling or partitions, and the container is placed optimally therein.

In a possible embodiment, the respective buffer spaces of the rooms of a building are connected to the individual areas via gas supply lines. Thus, in case of need, the buffer gas volume or buffer gas volumes can be guided by buffers of another area or areas into the target area via such supply lines... ."

In particular, Wagner does not teach a person skilled in the art to reduce the oxygen content in the target area lower than the limit concentration. Rather, Wagner teaches that the control concentration shall correspond to the concentration of the full level of inertion because in case of fire the buffer gas volume is supplied to the target area in order to reach the full level of

inertization in the target area and to extinguish a fire in the target area. In the regard, reference is made to paragraph [0038] of Wagner. Hence, according to Wagner, the control concentration corresponds to an oxygen content in the target area which is sufficient to prevent and/or extinguish fire (cf. paragraph [0007] of Wagner). However, contrary to the present invention, neither the growth curve of the oxygen content nor a failure safety margin have been taken into account in the prior art.

On the other hand, Howell, whether taken alone or together with Wagner, clearly does not teach or suggest reducing the oxygen content to a level which is so much lower than the limit concentration (GK) that the growth curve of the oxygen content reaches the limit concentration (GK) only after a certain period of time in the event that the primary source fails. Rather, column 5, lines 18 to 26 of Howell teaches reducing the oxygen content of the enclosure gas mixture sufficiently that combustion of the mixture will not occur, regardless of the volume of combustible gas within the mixture. Thus, Howell only teaches one skilled in the art to reduce the oxygen content to a control concentration which corresponds to the limit concentration or slightly lower than the limit concentration. In contrast, the present invention as recited in claim 11 sets the control concentration (RK) to a level which is so much lower than the limit concentration (GK) that the growth curve of the oxygen content reaches the limit concentration (GK) only after a certain period of time in the event that the primary source fails.

Based on the foregoing remarks, Applicant submits that independent Claim 11 is not taught or suggested by Howell and/or Wagner '669, and is therefore patentable. Applicant therefore requests removal of the rejections of the pending claims.

The dependent claims 12 and 14-18 are patentable for the reasons set forth above, as well as based on the recitations set forth therein.

CONCLUSION

Reconsideration and withdrawal of all the pending rejections and allowance of the application are hereby solicited.

If the Examiner believes that there is any issue that could be resolved by a telephone or personal interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

Applicants hereby petition for any extension of time which may be required to maintain the pendency of this case, and any required fee for such an extension is to be charged to Deposit Account No. 50-0951. Applicants also hereby authorize the USPTO to charge Deposit Account No. 50-0951 for any excess claim fees necessitated by this amendment, and any other fees required to maintain the pendency of this application.

Respectfully submitted,

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